IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 15034 of 2004(M)

PETITIONER:

**N.NAGAPPAN NAIR, S/O.NARAYANA PILLAI,
AGED 57 YEARS, RESIDING AT SAPNA , PACHALLOOR P.O.
TRIVANDRUM, SPL. GRADE SECRETARY,
VEMBAYAM GAMA PANCHAYATH (RTD).**

BY ADV. SRI.R.S.KALKURA.

RESPONDENTS:

1. **THE STATE OF KERALA, REP. BY THE SECRETARY, LOCAL ADMINISTRATION DEPT., GOVERNMENT OF KERALA, SECRETARIAT, TRIVANDRUM.**
2. **DIRECTOR OF PANCHAYATH, O/O.DIRECTOR OF PANCHAYATH, TRIVANDRUM.**
3. **THE DEPUTY DIRECTOR OF PANCHAYATH, NEAR OVER BRIDGE, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.15034/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE INTIMATION SLIP OF PENSIONARY BENEFIT DTD. 12/08/2002 ISSUED BY THE ACOUNTANT GENERAL'S OFFICE.

EXT.P.2: COPY OF THE MEMO OF CHARGES SERVED BY THE R.2. TO THE PETITIONER DTD. 27/04/2002.

EXT.P.3: COPY OF THE REPLY DTD. 13/05/2002.

EXT.P.4: COPY OF THE RELEVANT MINUTES DTD. 23/02/2001 OF THE PANCHAYATH COMMITTEE.

EXT.P.5: COPY OF THE BOUND DTD. 17/10/2002.

EXT.P.6: COPY OF THE COVERING LETTER OF NON LIABILITY CERTIFICATE ISSUED BY THE VEMBAYAM GRAMA PANCHAYATH DTD. 25/10/2002.

EXT.P.7: COPY OF THE NON LIABILITY CERTIFICATE ISSUED BY THE VEMBAYAM GRAMA PANCHAYAT DTD. 25/10/2003.

EXT.P.8: COPY OF THE REPRESENTATION DTD.20/10/2003.

EXT.P.9: COPY OF THE ORDER DTD. 27/03/2002.

EXT.P.10: COPY OF THE JUDGMENT DTD. 11/02/2004 IN W.P. NO. 34454/2003.

EXT.P.11: COPY OF THE GO. NO. 216 DTD. 23/09/1997 ISSUED BY THE R.3.

EXT.P.12: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE R.2. DTD 01/03/2004.

EXT.P.13: COPY OF THE ORDER DTD. 05/04/2004 ISSUED BY THE R.2.

EXT.P.15: COPY OF THE MEASUREMENT BOOK NO. 26/2000-2001 WITH REGARD TO MAINTENANCE ETC. OF THE WORK CARRIED OUT BY THE PETITIONER.

W.P.(C). NO.15034/2004:

RESPONDENT'S EXHIBITS:

EXT.R1: COMPLAINT SUBMITTED BEFORE GOVT. BY SRI. NANNATTUKAVU SALAHUDHEEN, MEMBER OF VEMBAYAM GRAMA PANCHAYAT, DTD. 16/04/2002.

EXT.R2: LR. NO. E4.7739/01 DT. 05/06/04 OF DY. DIRECTOR OF PANCHAYAT TO ACCOUNTANT GENERAL OF KERALA, TVM.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 15034 of 2004-M

Dated this the 13th day of July, 2007.

J U D G M E N T

The petitioner retired from service as Special Grade Secretary of Vembayam Grama Panchayat in Thiruvananthapuram District. Though he retired from service on 30-4-2002, the DCRG due to him was not released in time. Finally, after deducting a liability of Rs.1,18,707/-, the DCRG was released to him. The said liability was finalised against him by the Director of Panchayat by Ext.P13 order dated 5-4-2004. This writ petition is filed challenging the said order and also praying for repayment of the said amount with interest.

2. The allegation against the petitioner is that during the year 2001, he committed irregularities in digging and maintaining some wells, to meet the acute shortage of drinking water. According to him, he prepared an estimate, placed the same before the Panchayat Committee, and got administrative sanction for doing the work. All the expenses incurred were certified by the Block Level Executive Committee member who is an Engineer and the Block Panchayat President. So, everything was done in order. It is also pointed out that the petitioner has caused loss to the Panchayat to the tune of Rs.1,18,707/-. Another allegation is that he has caused substantial loss to the Panchayat. But, the petitioner relying on the audit report of the

Panchayat for the relevant period pointed out that the said claim of the respondents is not correct. Other contentions were also raised. But, I feel that this factual dispute should be first examined by the Government after affording an opportunity of being heard to the petitioner. So, if the petitioner files a representation against Ext.P13 before the Government within one month from today, the Government will hear the petitioner, consider the materials produced by him and also his contentions and pass a speaking order disposing of the said representation as expeditiously as possible, at any rate within three months from the date of receipt of that representation. If the matter is decided in favour of the petitioner, needless to say the deducted amount shall be released to him, without delay.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS